

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 925**

**Introduced by Assembly Member Ridley-Thomas**

February 18, 2005

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An act to add Article 19 (commencing with Section 1120) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurer investments.

LEGISLATIVE COUNSEL'S DIGEST

AB 925, as amended, Ridley-Thomas. Insurance: community investments.

Existing law generally regulates the investments of insurers.

This bill would make findings and declarations regarding the need to promote investment by insurers in low-income and moderate-income communities, ~~and would state the intent of the Legislature to encourage insurers to make safe and sound community development investments in low-income communities that benefit low-income individuals and have a positive impact on those communities.~~ It would define "community development investments" to mean specified investments that have as their primary purpose community development benefitting California low-income or moderate-income individuals or communities, and would require each California insurer, as of December 31 of each year, to have community development investments in certain amounts, except as specified. The bill would provide for the oversight and regulation of these investments by the Insurance Commissioner, and would require the commissioner to provide certain information on these investments to the public.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

~~SECTION 1. (a) The Legislature finds and declares the following:~~

*SECTION 1. Article 19 (commencing with Section 1120) is added to Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read:*

*Article 19. California Insurance Community Investment Act*

*1120. The Legislature finds and declares the following:*

~~(1)~~

*(a) Insurers are a vital and integral part of the California economy. Insurers are one of the largest institutional sources of capital invested or available for investment in California businesses and affordable housing development.*

~~(2) Insurers'~~

*Insurers' investable assets are derived, in part, from premiums paid by California policyholders and the manner in which those assets are invested affects the prosperity of California's communities.*

~~(3)~~

*(b) Pursuant to the federal Community Reinvestment Act, federally regulated financial institutions have a continuing and affirmative obligation to meet the credit needs of the communities they are chartered to serve, including low-income and moderate-income areas. The federal act has had a positive impact on low-income and moderate-income communities in California by creating jobs, increasing business and real estate lending, developing affordable housing units, and increasing access to financial products and services in underserved markets. Unlike financial institutions, insurers have no similar obligation to ensure that their investments promote the overall growth and development of low-income or moderate-income communities.*

~~(4) Investment in low-income communities in California has~~

*(c) Investment in low-income and moderate-income communities in California has been insufficient, resulting in a*

1 low level of economic vitality, substandard housing, and a  
2 decline in the quality of life in many rural and urban areas.

3 ~~(5) There~~

4 *There* are safe and sound community development investments  
5 available to insurers in low-income *and moderate-income*  
6 communities that offer competitive rates of return and that would  
7 not compromise the financial interests of insurance company  
8 policyholders and shareholders. These investments represent  
9 unmet or overlooked business opportunities in California.

10 ~~(6)~~

11 *(d)* Investment by insurance companies is an important source  
12 of capital for California. There is in the Department of Insurance  
13 the California Organized Investment Network (COIN) that  
14 facilitates investments by insurers in California's low-income  
15 *and moderate-income* communities. The purpose of COIN is to  
16 increase the level of insurance industry capital committed to safe  
17 and sound community investments that benefit California's  
18 low-income ~~urban and rural~~ *and moderate-income* communities.  
19 Despite COIN's best efforts, there has been an insufficient level  
20 of economically targeted investment in California.

21 ~~(7) The creation of IMPACT Capital, a for-profit insurance~~  
22 ~~industry investment intermediary that proposes to make~~  
23 ~~community investments in California, is a positive development~~  
24 ~~that has the potential for increasing insurers' economically~~  
25 ~~targeted investments. IMPACT Capital's investments to date,~~  
26 ~~however, relative to the amount of premiums collected annually~~  
27 ~~in California, are insufficient. Further, IMPACT Capital only~~  
28 ~~represents a small portion of the entire industry licensed to do~~  
29 ~~business in California and there is no assurance that IMPACT~~  
30 ~~Capital will increase its membership or investment portfolio.~~

31 ~~(b) It is the intent of the Legislature to encourage insurance~~  
32 ~~companies to make safe and sound community development~~  
33 ~~investments in low-income communities that benefit low-income~~  
34 ~~individuals and have a positive impact on those communities.~~  
35 ~~The investments should include investments intended to create or~~  
36 ~~retain jobs or to create new or expanded business opportunities.~~

37 *(e) There exists a for-profit insurance industry investment*  
38 *intermediary that makes community investments in California. It*  
39 *is a positive development that has the potential for increasing*  
40 *insurer investments in economically targeted communities. Its*

1 investments to date, however, relative to the amount of premiums  
2 collected annually in California, are insufficient. Further, it only  
3 represents a small portion of the entire industry admitted to do  
4 business in California and there is no assurance that it will  
5 increase its membership or investment portfolio.[PU EXTERNAL  
6 SOURCE ]

7 (f) It is, therefore, the intent of the Legislature to encourage  
8 insurance companies to make safe and sound community  
9 development investments, ease insurance underwriting criteria,  
10 and financially support community services in low-income or  
11 moderate-income communities to benefit low-income or  
12 moderate-income individuals. The investments should include  
13 investments intended to create or retain jobs or create new or  
14 expanded business opportunities, in addition to developing  
15 affordable housing in various communities throughout the state.  
16 [PU EXTERNAL SOURCE ]

17 1121. This article shall be known and may be cited as the  
18 California Insurance Community Investment Act. It shall apply to  
19 all insurers admitted to do business in California.

20 1122. As used in this article, the following terms shall have  
21 the following meanings:

22 (a) "Area median income" means either of the following:

23 (1) The median family income for the MSA, if a person or  
24 geography is located in an MSA, or for the metropolitan division,  
25 if a person or geography is located in an MSA that has been  
26 subdivided into metropolitan divisions.

27 (2) The statewide nonmetropolitan median family income, if a  
28 person or geography is located outside an MSA.

29 (b) "Community development investment" means a lawful  
30 equity or debt investment, deposit, or membership share, or an  
31 identifiable portion of a lawful equity or debt investment, deposit,  
32 or membership share that has as its primary purpose community  
33 development benefitting California low-income or  
34 moderate-income individuals or communities. "Community  
35 development" includes, but is not limited to, the following:

36 (1) Affordable housing, including multifamily rental housing,  
37 for low-income or moderate-income individuals throughout the  
38 state.

39 (2) Community services targeted to low-income or  
40 moderate-income individuals.

1 (3) *Promoting economic development that demonstrates*  
2 *benefits, including, but not limited to, job creation, retention or*  
3 *improvement, or provision of needed capital, to low-income,*  
4 *moderate-income, or rural communities, residents, businesses, or*  
5 *nonprofit community service organizations.*

6 (4) *Activities that revitalize or stabilize low-income or*  
7 *moderate-income communities.*

8 (c) *“Geography” means a census tract delineated by the*  
9 *United States Bureau of the Census in the most recent decennial*  
10 *census.*

11 (d) *“Insurer” means an admitted insurer as defined in Section*  
12 *24, including the State Compensation Insurance Fund, and a*  
13 *domestic fraternal benefit society as defined in Section 10990.*

14 (e) *“Low-income” means an individual income that is less*  
15 *than 50 percent of the area median income, or a median family*  
16 *income that is less than 50 percent in the case of a geography.*

17 (f) *“MSA” means a metropolitan statistical area as defined by*  
18 *the Director of the Office of Management and Budget.*

19 (g) *“Moderate income” means an individual income that is at*  
20 *least 50 percent but less than 80 percent of the area median*  
21 *income, or a median family income that is at least 50 percent but*  
22 *less than 80 percent in the case of a geography.*

23 (h) *“Nonmetropolitan area” means any area that is not*  
24 *located in an MSA.*

25 (i) *“Safe and sound investments” means investments that are*  
26 *consistent with safe and sound operations. The Legislature*  
27 *anticipates that insurers can meet the standards of this article*  
28 *with safe and sound investments on which insurers expect to*  
29 *make a profit. Insurers are authorized and encouraged to*  
30 *develop and apply flexible investment criteria for community*  
31 *development investments that are consistent with safe and sound*  
32 *operations.*

33 (j) *“Surplus” means any of the following, as applicable:*

34 (1) *For insurers filing property and casualty or title insurance*  
35 *annual statements, the amount reported on page 4 as “Surplus as*  
36 *regards policyholders, Current Year” in the preceding December*  
37 *31st annual statement filed with the commissioner.*

38 (2) *For insurers filing life, accident, and health annual*  
39 *statements, the amount reported on page 4 as “Capital and*

1 *Surplus, Current Year” in the preceding December 31st annual*  
2 *statement filed with the commissioner.*

3 *(3) For insurers filing fraternal annual statements, the amount*  
4 *reported on page 4 as “Surplus, Current Year” in the preceding*  
5 *December 31st annual statement filed with the commissioner.*

6 *(k) “Total invested assets” means the total invested assets as*  
7 *reported on the preceding December 31st annual statement filed*  
8 *with the commissioner.*

9 *1123. As of December 31 of each year, each insurer admitted*  
10 *to do business in California shall have community development*  
11 *investments as follows:*

12 *(a) Insurers with a surplus of less than \$500 million shall*  
13 *invest not less than 1 percent of their California allocated*  
14 *surplus. The allocated amount is the product of the ratio of*  
15 *California total direct written premium to total direct written*  
16 *premium multiplied by surplus, all as reported in the annual*  
17 *statement for the preceding year.*

18 *(b) Insurers with a surplus of \$500 million or more shall*  
19 *invest not less than one percent of California allocated invested*  
20 *assets. The allocated amount is the product of the ratio of*  
21 *California total direct written premium to total direct written*  
22 *premium multiplied by total invested assets, all as reported in the*  
23 *annual statement for the preceding year.*

24 *1124. The commissioner shall evaluate each insurer’s*  
25 *performance in helping to meet the capital needs of low-income*  
26 *or moderate-income communities through community*  
27 *development investments in those communities.*

28 *1125. (a) Every two years, the commissioner shall assess the*  
29 *performance of insurers under this article by applying the*  
30 *investment test in Section 1124.*

31 *(b) The commissioner shall identify on the department’s*  
32 *Internet Web site the level of insurer compliance with this article.*  
33 *In addition, insurers shall be identified that make investments*  
34 *that are innovative, responsive to community needs, not routinely*  
35 *provided by private investors, and have a positive impact on the*  
36 *economic welfare of low- and moderate-income residents and*  
37 *communities in urban and rural California.*

38 *(c) Insurers shall make community development investments*  
39 *that are consistent with safe and sound operations, and*

1 *authorized in Sections 1170 to 1210, inclusive, excluding*  
2 *Sections 1191.1 and 1191.5.*

3 *1126. Notwithstanding any other provision of this code, an*  
4 *insurer shall, in order to make community development*  
5 *investments, be granted an increase of one half of one percent in*  
6 *its maximum discretionary investment limits as authorized in*  
7 *subdivision (a) of Section 1210, if the commissioner determines*  
8 *that the insurer's financial condition so warrants.*

9 *1127. Pursuant to this article, each insurer admitted to do*  
10 *business in California shall provide information to the*  
11 *commissioner on its community development investment*  
12 *activities. This information shall be provided as part of the*  
13 *required filing pursuant to Sections 923 and 925.4, or through a*  
14 *department data call, or by other means as determined by the*  
15 *commissioner.*

16 *1128. The first reporting period under this article shall be*  
17 *January 1, 2006, through December 31, 2006. The required*  
18 *information shall be submitted to the commissioner by April 1,*  
19 *2007. Full compliance with the requirements of this article shall*  
20 *be accomplished by December 31, 2009.*

21 *1129. (a) The commissioner may issue bulletins and notices,*  
22 *or promulgate regulations, setting forth the requirements for*  
23 *implementation of this article. In connection with any of the*  
24 *reviews contemplated by this article, insurers will be subject to*  
25 *the provisions of Article 4 (commencing with Section 730) of this*  
26 *chapter.*

27 *(b) The commissioner shall, by bulletin, notice, or regulation,*  
28 *determine whether, and to what extent, charitable contributions*  
29 *specifically targeted to community development and community*  
30 *service may be provided in lieu of the investment requirements of*  
31 *Section 1123.*

32 *(c) The commissioner may modify or waive, in whole or in*  
33 *part, for a specified period of time, the requirements of this*  
34 *article for an insurer, if either of the following is true:*

35 *(1) The commissioner finds, after a financial review, that the*  
36 *solvency or liquidity of the insurer would be compromised by the*  
37 *investment requirement, or that the insurer's risk-based capital is*  
38 *at or below the regulatory action level.*

- 1     (2) *The insurer satisfies the commissioner that good cause*
- 2     *exists to conclude that the insurer's financial condition or market*
- 3     *share, or another circumstance, warrants waiver.*
- 4     (d) *The commissioner may recover, from the insurers that are*
- 5     *subject to this article, any costs of implementing the article.*